Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
GTE Petition for Declaratory Ruling Regarding	)	
the Use of Section 252(i) To Opt Into	)	CC Docket No. 99-143
Provisions Containing	)	
Non-Cost-Based Rates	)	

COMMENTS OF MEDIA ONE GROUP

Pursuant to the Public Notice herein, MediaOne Group (MediaOne) submits these Comments on the Petition for Declaratory Ruling (Petition) submitted by GTE Service Corporation and affiliated domestic telephone operating companies (collectively, GTE).

THE COMMISSION SHOULD DENY THE PETITION.

In the Petition, GTE seeks a ruling that would preclude competitive local exchange carriers (CLECs) from "opting-in" to provisions of interconnection agreements that are no longer "cost-based." Specifically, GTE claims that rates reflected in the reciprocal compensation provisions in some of its interconnection agreements are no longer cost-based because state commissions have required GTE to include ISP-bound traffic in the computation of reciprocal compensation, something GTE says it did not contemplate in its negotiations with the CLECs involved.[1] GTE tells us that requiring it to grant these provisions to other CLECs through the opt-in process[2] would be inconsistent with the Communications Act, with Section 51.809 of the Commission's rules, and with the Commission's proposal to resolve matters related to reciprocal

[1] Petition, at 5-7.
[2] Communications Act, §252(i).

compensation for ISP-bound traffic by means of the interconnection negotiation process. The Commission should deny the Petition.

GTE seeks nothing less than to have the Commission revise the process by which carriers enter into interconnection agreements. The opt-in requirement is an integral part of that process, enabling CLECs to complete the process of establishing an interconnection agreement with an incumbent without having to re-litigate issues already resolved in prior proceedings involving the same incumbent. GTE asks the Commission now to rule that it can contest the propriety of such an opt-in simply by claiming that, due to changed circumstances, the existing provision is no longer cost-based. This would presumably force the requesting CLEC either to accept less-generous, "cost-based" terms agreeable to GTE, or to arbitrate the issue with the state commission.[3] The Commission should not (and legally cannot) change the interconnection process in this fashion without a rulemaking proceeding.

GTE's proposal would effectively empower the incumbents to force their competitors either to accept the incumbents' terms, or face the prospect of arbitrating anew issues already settled in previous proceedings. The delay involved in the latter course could make this a difficult decision, particularly for a CLEC seeking its initial entry into the market. The negotiation/arbitration process is lengthy. Forcing a CLEC to go through that process could delay the CLEC's entry into the market.

GTE claims support for its position in Section 51.809 of the Commission's rules. That rule, according to GTE, "provides that ILECs do not have to make available . . . provisions of

[3] GTE makes no attempt to explain what sort of procedures it would propose to use to resolve whether a rate has ceased to be cost-based.

agreements in which the costs . . . are no longer cost-based."[4] If that were the rule, GTE would seem to have no need for relief.

In fact, of course, the relevant provision of Section 51.809 excuses an ILEC from the opt-in requirement if the ILEC "proves to the state commission" that:

> The costs of providing a particular interconnection, service, or element to the requesting telecommunications carrier are greater than the costs of providing it to the telecommunications carrier that originally negotiated the agreement . . .[5]

The rule thus has nothing to do with changed circumstances, and it does not excuse an ILEC from the opt-in requirement because a rate is no longer cost-based. It addresses the specific situation in which providing a requested interconnection, service, or element to the requesting carrier will cost the providing ILEC more than it costs to provide to the original carrier.

GTE claims to find further support from the Communications Act itself because Section 252(d) of the Act requires that prices for unbundled network elements be cost-based.[6] But that provision prescribes how state commissions are to go about setting prices.[7] It does not prescribe a general rule for the pricing of interconnection or network elements outside its stated context, and it does not authorize an ILEC to eviscerate the opt-in requirement simply by claiming a change of circumstance. This is particularly so where – as here – the changed circumstance is simply the fact that the state commission resolved the issue in a manner contrary to GTE's wishes. In doing so, a state commission will presumably have taken the Act's pricing standards into account (and if it has not, the Act gives GTE the right to appeal the decision). Indeed, GTE presents no

---

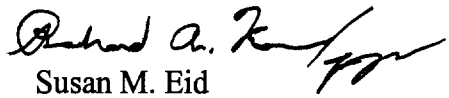
[4] Petition, at 4.
[5] Rules, §51.809(b)(1).
[6] Petition, at 4.
[7] "Determinations by a State commission of the . . . rate [for interconnection and unbundled network elements] –
"(A) shall be –

evidence whatever to support the notion that the cost of terminating ISP traffic is any less than the cost of terminating ordinary local traffic. And if that cost is not less, GTE cannot legitimately claim that the compensation should be less.

Finally, GTE claims that subjecting reciprocal-compensation provisions to the opt-in requirement is inconsistent with the Commission's proposal to resolve these issues by means of inter-carrier negotiations.[8] GTE has misstated the Commission's proposal, which would resolve these matters "by interconnection agreements negotiated *and arbitrated* under sections 251 and 252 of the Act."[9] The interconnection provisions GTE finds objectionable were negotiated and arbitrated pursuant to the Act, and nothing in the Commission's recent proposals would preclude applying the opt-in requirement to those provisions.

At bottom, GTE seeks the ability to disregard a state commission's determination on the issue of reciprocal compensation for ISP-bound traffic whenever that decision goes against GTE. That is contrary to the procedures created by the Act and the Commission's Rules. The Commission should deny the Petition.

Respectfully submitted,



Susan M. Eid
Richard A. Karre
MediaOne Group, Inc.
1919 Pennsylvania Avenue, N.W.
Suite 610
Washington, D.C. 20006
202-261-2000

May 17, 1999

"(i) based on the cost . . . of providing the interconnection or network element . . ."

[8] Petition, at 9-10.

[9] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Inter-Carrier Compensation for ISP-Bound Traffic*, CC Dockets Nos. 96-68 and 99-68 (February 26, 1999), para. 30 (emphasis added).

CERTIFICATE OF SERVICE

I, Cathy Quarles, do hereby certify that copies of the foregoing MediaOne Group, Inc. Comments in response to the Petition for Declaratory Ruling submitted by GTE Service Corporation were sent, on this 17th day of May, 1999, via first-class mail, postage pre-paid, or hand delivery(*):

Chairman William E. Kennard*
Federal Communications Commission
The Portals
445 12th Street, SW, Room 8B201
Washington, D.C. 20554

Commissioner Harold Furchgott-Roth*
Federal Communications Commission
The Portals
445 12th Street, SW, Room 8A302
Washington, D.C. 20554

Commissioner Michael K. Powell*
Federal Communications Commission
The Portals
445 12th Street, SW, Room 8A204
Washington, D.C. 20554

Commissioner Susan P. Ness*
Federal Communications Commission
The Portals
445 12th Street, SW, Room 8B115
Washington, D.C. 20554

Thomas Parker
GTE Service Corporation
600 Hidden Ridge, MS HQ-E03J43
P.O. Box 152092
Irving, Texas 75015-2092

Janice M. Myles*
Federal Communications Commission
The Portals
445 12th Street, SW, Room 5-C327
Washington, D.C. 20554

Carol Mattey*
Common Carrier Bureau
445 12th Street, S.W., 5th Floor
Washington, D.C. 20554

Lawrence Strickling*
Common Carrier Bureau
445 12th Street, S.W., 5th Floor
Washington, D.C. 20554

Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

Gregory J. Vogt
Suzanne Yelen
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

ITS*
1231 20th Street, NW
Washington, D.C. 20036

Cathy Quarles

DCDOCS: 150163.1 (37v701!.doc)